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Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LORRAINE S. MUSHOK, R.C.P.  
444 N. Via Pisa  
Anaheim, CA 92806  
Respiratory Care Practitioner License No. 320

Respondent.

Case No. R-2077

OAH No. L2007070055

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
above-entitled proceedings that the following matters are true:

PARTIES

1. Stephanie Nunez (Complainant) is the Executive Officer of the  
Respiratory Care Board of California. She brought this action solely in her official capacity and  
is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of  
California, by Douglas Lee, Deputy Attorney General.

2. Respondent LORRAINE S. MUSHOK, R.C.P. (Respondent) is  
represented in this proceeding by attorney David D. Ribeiro, whose address is Whittier Plaza  
One, 16215 East Whittier Boulevard, Whittier, California 90603.

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1                   3.       On or about March 29, 1985, the Respiratory Care Board of California  
2 issued Respiratory Care Practitioner License No. 320 to LORRAINE S. MUSHOK, R.C.P.  
3 (Respondent). The was in full force and effect at all times relevant to the charges brought in  
4 Accusation No. R-2077 and will expire on December 31, 2008, unless renewed.

5   JURISDICTION

6                   4.       Accusation No. R-2077 was filed before the Respiratory Care Board  
7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The  
8 Accusation and all other statutorily required documents were properly served on Respondent on  
9 May 23, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A  
10 copy of Accusation No. R-2077 is attached as Exhibit A and incorporated herein by reference.

11   ADVISEMENT AND WAIVERS

12                   5.       Respondent has carefully read, fully discussed with counsel, and  
13 understands the charges and allegations in Accusation No. R-2077. Respondent has also  
14 carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
15 Settlement and Disciplinary Order.

16                   6.       Respondent is fully aware of her legal rights in this matter, including the  
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
18 counsel at her own expense; the right to confront and cross-examine the witnesses against her;  
19 the right to present evidence and to testify on her own behalf; the right to the issuance of  
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
21 reconsideration and court review of an adverse decision; and all other rights accorded by the  
22 California Administrative Procedure Act and other applicable laws.

23                   7.       Respondent voluntarily, knowingly, and intelligently waives and gives up  
24 each and every right set forth above.

25   CULPABILITY

26                   8.       Respondent admits the truth of each and every charge and allegation in  
27 Accusation No. R-2077.

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9. Respondent agrees that her Respiratory Care Practitioner License is subject to discipline and she agrees to be bound by the Respiratory Care Board's (Board) imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Respiratory Care Board. Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory Care Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing this stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

## CONTINGENCY

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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1. *Staphylococcus aureus*  
2. *Staphylococcus aureus*  
3. *Staphylococcus aureus*

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 320 issued to Respondent LORRAINE S. MUSHOK, R.C.P. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. WORK SCHEDULES Respondent shall be required to submit to the probation monitor work schedules on a weekly/monthly basis for the length of probation. Respondent shall ensure the Board has a copy of her current work schedule at all times for each place of employment.

Failure to submit current work schedules on a continuous basis shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

2. BIOLOGICAL FLUID TESTING Respondent, at her expense, shall participate in random testing, including, but not limited to, biological fluid testing (i.e. urine, blood, saliva), breathalyzer, hair follicle testing, or a drug screening program approved by the Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire probation period. The frequency and location of testing will be determined by the Board.

At all times, Respondent shall fully cooperate with the Board or any of its representatives, and shall, when directed, appear for testing as requested and submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances.

If Respondent is unable to provide a specimen in a reasonable amount of time from the request, while at the work site, Respondent understands that any Board representative may request from the supervisor, manager or director on duty to observe Respondent in a manner that does not interrupt or jeopardize patient care in any manner until such time Respondent provides a specimen acceptable to the Board.

Failure to submit to testing or appear as requested by any Board representative for testing, as directed shall constitute a violation of probation and shall result in the filing of an

1 accusation and/or a petition to revoke probation against Respondent's respiratory care  
2 practitioner license.

3           3.     ABSTENTION FROM USE OF ANY AND ALL MOOD ALTERING  
4 SUBSTANCES Respondent shall completely abstain from the possession or use of alcohol,  
5 controlled substances, dangerous drugs, and any and all other mood altering drugs, substances  
6 and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed  
7 practitioner as part of a documented medical treatment.

8           Respondent shall execute a release authorizing the release of pharmacy and  
9 prescribing records as well as physical and mental health medical records. Respondent shall also  
10 provide information of treating physicians, counselors or any other treating professionals as  
11 requested by the Board.

12           Respondent shall ensure that she is not in the presence of or in the same physical  
13 location as individuals who are using illegal substances, even if Respondent is not personally  
14 ingesting the drug(s).

15           Any positive result that registers over the established laboratory cutoff level shall  
16 constitute a violation of probation and shall result in the filing of an accusation and/or a petition  
17 to revoke probation against Respondent's respiratory care practitioner license.

18           Respondent also understands and agrees that any positive result that registers over  
19 the established laboratory cutoff level shall be reported to each of Respondent's employers.

20           4.     RESTRICTION OF PRACTICE Respondent may not be employed or  
21 function as a member of a respiratory care management or supervisory staff during the entire  
22 length of probation. This includes lead functions.

23           Respondent is prohibited from working in home care unless it is under direct  
24 supervision and personal observation.

25           Respondent is prohibited from working for a registry.

26           5.     SUPERVISOR QUARTERLY REPORTS Supervisor Quarterly Reports  
27 of Performance are due for each year of probation and the entire length of probation from each  
28 employer, as follows:

1 For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be  
2 completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering April 1<sup>st</sup>  
3 through June 30<sup>th</sup>, reports are to be completed and submitted between July 1<sup>st</sup> and July 7<sup>th</sup>. For  
4 the period covering July 1<sup>st</sup> through September 30<sup>th</sup>, reports are to be completed and submitted  
5 between October 1<sup>st</sup> and October 7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>,  
6 reports are to be completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

7 Respondent is ultimately responsible for ensuring her employer(s) submits  
8 complete and timely reports. Failure to ensure each employer submits complete and timely  
9 reports shall constitute a violation of probation.

10 6. OBEY ALL LAWS Respondent shall obey all laws, whether federal,  
11 state, or local. Respondent shall also obey all regulations governing the practice of respiratory  
12 care in California.

13 Respondent shall notify the Board in writing within 14 days of any incident  
14 resulting in her arrest, or charges filed against, or a citation issued against Respondent.

15 7. QUARTERLY REPORTS Respondent shall file quarterly reports of  
16 compliance under penalty of perjury, on forms to be provided to the probation monitor assigned  
17 by the Board. Omission or falsification in any manner of any information on these reports shall  
18 constitute a violation of probation and shall result in the filing of an accusation and/or a petition  
19 to revoke probation against Respondent's respiratory care practitioner license.

20 Quarterly report forms will be provided by the Board. Respondent is responsible  
21 for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each  
22 year of probation and the entire length of probation as follows:

23 For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be  
24 completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering April 1<sup>st</sup>  
25 through June 30<sup>th</sup>, reports are to be completed and submitted between July 1<sup>st</sup> and July 7<sup>th</sup>. For  
26 the period covering July 1<sup>st</sup> through September 30<sup>th</sup>, reports are to be completed and submitted  
27 between October 1<sup>st</sup> and October 7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>,  
28 reports are to be completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

1 Failure to submit complete and timely reports shall constitute a violation of  
2 probation.

3 8. PROBATION MONITORING PROGRAM Respondent shall comply  
4 with requirements of the Board appointed probation monitoring program, and shall, upon  
5 reasonable request, report to or appear to a local venue as directed.

6 Respondent shall claim all certified mail issued by the Board, respond to all  
7 notices of reasonable requests timely, and submit Annual Reports, Identification Update reports  
8 or other reports similar in nature, as requested and directed by the Board or its representative.

9 Respondent is encouraged to contact the Board's Probation Program at any time  
10 she has a question or concern regarding her terms and conditions of probation.

11 Failure to appear for any scheduled meeting or examination, or cooperate with the  
12 requirements of the program, including timely submission of requested information, shall  
13 constitute a violation of probation and will result in the filing of an accusation and/or a petition to  
14 revoke probation against Respondent's respiratory care practitioner license.

15 9. PROBATION MONITORING COSTS All costs incurred for probation  
16 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may  
17 be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms  
18 and conditions may also cause this amount to be increased.

19 All payments for costs are to be sent directly to the Respiratory Care Board and  
20 must be received by the date(s) specified. (Periods of tolling will not toll the probation  
21 monitoring costs incurred.)

22 If Respondent is unable to submit costs for any month, she shall be required  
23 instead to submit an explanation of why she is unable to submit the costs, and the date(s) she will  
24 be able to submit the costs including payment amount(s). Supporting documentation and  
25 evidence of why the Respondent is unable to make such payment(s) must accompany this  
26 submission.

27 Respondent understands that failure to submit costs timely is a violation of  
28 probation and submission of evidence demonstrating financial hardship does not preclude the

1 Board from pursuing further disciplinary action. However, Respondent understands providing  
2 evidence and supporting documentation of financial hardship may delay further disciplinary  
3 action.

4 In addition to any other disciplinary action taken by the Board, an unrestricted  
5 license will not be issued at the end of the probationary period and the respiratory care  
6 practitioner license will not be renewed, until such time all probation monitoring costs have been  
7 paid.

8 The filing of bankruptcy by Respondent shall not relieve the Respondent of her  
9 responsibility to reimburse the Board for costs incurred.

10 10. EMPLOYMENT REQUIREMENT Respondent shall be employed a  
11 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of her  
12 probation period.

13 Respondent may substitute successful completion of a minimum of thirty (30)  
14 additional continuing education hours, beyond that which is required for license renewal, for  
15 each 8 months of employment required. Respondent shall submit proof to the Board of  
16 successful completion of all continuing education requirements. Respondent is responsible for  
17 paying all costs associated with fulfilling this term and condition of probation.

18 11. NOTICE TO EMPLOYER Respondent shall be required to inform her  
19 employer, and each subsequent employer during the probation period, of the discipline imposed  
20 by this decision by providing her supervisor and director and all subsequent supervisors and  
21 directors with a copy of the decision and order, and the Statement(s) of Issues or Accusation(s) in  
22 this matter prior to the beginning of or returning to employment or within 14 days from each  
23 change in a supervisor or director.

24 If Respondent is employed by or through a registry [and is not restricted from  
25 working for a registry], Respondent shall make each hospital or establishment to which she is  
26 sent aware of the discipline imposed by this decision by providing her direct supervisor and  
27 administrator at each hospital or establishment with a copy of this decision, and the Statement(s)  
28 of Issues or Accusation(s) in this matter prior to the beginning of employment. This must be

done each time there is a change in supervisors or administrators.

The employer will then inform the Board, in writing, that she is aware of the discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting the Board to obtain additional forms, if needed. All reports completed by the employer must be submitted from the employer directly to the Board.

Respondent shall execute a release authorizing the Board or any of its representatives to review and obtain copies of all employment records and discuss and inquire of the probationary status with any of Respondent's supervisors or directors.

12. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall notify the Board, and appointed probation monitor, in writing, of any and all changes of employment, location, and address within 14 days of such change. This includes, but is not limited to, applying for employment, termination or resignation from employment, change in employment status, change in supervisors, administrators or directors.

Respondent shall also notify her probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing purposes, however the Respondent must also provide her physical residence address as well.

13. SURRENDER OF LICENSE Following the effective date of this decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, she may request the voluntary surrender of her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, within 15 calendar days Respondent shall deliver her wallet and wall certificate to the Board or its designee and she shall no longer practice respiratory care. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a respiratory care license, the application shall be treated as a petition for reinstatement of a revoked license.

1                   14.     COST RECOVERY Respondent shall pay to the Board a sum not to  
2 exceed the costs of the investigation and prosecution of this case. That sum shall be \$1,856.50  
3 and shall be paid in full directly to the Board, in equal quarterly payments, within 12 months  
4 from the effective date of this decision. Cost recovery will not be tolled.

5                   If Respondent is unable to submit costs timely, she shall be required instead to  
6 submit an explanation of why she is unable to submit these costs in part or in entirety, and the  
7 date(s) she will be able to submit the costs including payment amount(s). Supporting  
8 documentation and evidence of why the Respondent is unable to make such payment(s) must  
9 accompany this submission.

10                  Respondent understands that failure to submit costs timely is a violation of  
11 probation, and submission of evidence demonstrating financial hardship does not preclude the  
12 Board from pursuing further disciplinary action. However, Respondent understands that  
13 providing evidence and supporting documentation of financial hardship may delay further  
14 disciplinary action.

15                  Consideration to financial hardship will not be given should Respondent violate  
16 this term and condition, unless an unexpected AND unavoidable hardship is established from the  
17 date of this order to the date payment(s) is due.

18                  The filing of bankruptcy by the Respondent shall not relieve the Respondent of  
19 her responsibility to reimburse the Board for these costs.

20                  15.     TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods  
21 of residency or practice outside California, whether the periods of residency or practice are  
22 temporary or permanent, will toll the probation period, but will not toll the cost recovery  
23 requirement, nor the probation monitoring costs incurred. Travel out of California for more than  
24 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the  
25 Board, in writing, within 14 days, upon her return to California and prior to the commencement  
26 of any employment where representation as a respiratory care practitioner is/was provided.

27                  16.     VALID LICENSE STATUS Respondent shall maintain a current, active  
28 and valid license for the length of the probation period. Failure to pay all fees and meet

1 Continuing Education requirements prior to her license expiration date shall constitute a  
2 violation of probation.

3 17. VIOLATION OF PROBATION If Respondent violates any term of the  
4 probation in any respect, the Board, after giving Respondent notice and the opportunity to be  
5 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to  
6 revoke probation is filed against Respondent during probation, the Board shall have continuing  
7 jurisdiction and the period of probation shall be extended until the matter is final. No petition for  
8 modification of penalty shall be considered while there is an accusation or petition to revoke  
9 probation or other penalty pending against Respondent.

10 18. COMPLETION OF PROBATION Upon successful completion of  
11 probation, Respondent's license shall be fully restored.

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DATED: October 31, 2007.

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DATED:

11/6/07

  
DOUGLAS LEE  
Deputy Attorney General  
Attorneys for Complainant

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**BEFORE THE  
RESPIRATORY CARE BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2077

LORRAINE S. MUSHOK  
444 N. Via Pisa  
Anaheim, Ca 92806

Respiratory Care Practitioner License No. 320

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**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on December 28, 2007.

It is so ORDERED December 19, 2007.

Original signed by:  
LARRY L. RENNER, BS, RRT, RCP, RPFT  
PRESIDENT, RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA